

### **REMARKS**

This paper is submitted in response to the final Office Action mailed February 17, 2010 ("the Office Action"). The foregoing amendment cancels claim 2; amends claims 1, 4, 9, 11, 15, 17, 21, and 23; and adds new claims 27 and 28. Claims 1 and 3-28 are now pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

### **Examiner's Interview**

Applicants thank Examiner for the telephone interview of May 26, 2010. In the interview, Applicants argued that the rejection was based on a mischaracterization of *Anderson*

*et al.* (U.S. Patent No. 5,850,388). More specifically, Applicants noted that claim 1 recites capturing first data events at a "first link analyzer," capturing second data events at a "second link analyzer," and "sorting at least some of the first captured data events with respect to at least some of the second captured data events." In contrast, *Anderson* teaches sorting events detected by a single analyzer (Domino 1) in Figure 21. However, according to the Examiner, certain teachings in *Anderson*, including certain steps shown in Figure 7, imply that the Domino 1 analyzer includes multiple analyzers, each for analyzing a different protocol. Applicants respectfully disagree. Nonetheless, in the interest of expediting allowance, Applicants have amended each of the independent claims to further distinguish the claims from the cited art, as discussed below.

### **Rejection under 35 U.S.C §103(a)**

The Office Action rejects claims 5-7 and 9-26 under 35 U.S.C §103(a) as being unpatentable over *Anderson et al.* (U.S. Patent No. 5,850,388) in view of *Vaglica et al.* (U.S. Patent No. 6,125,404) further in view of *Hrischuk et al.* (U.S. Patent Publication No. 2002/0194393) and rejects claims 1-4 and 8 under 35 U.S.C §103(a) as being unpatentable over *Anderson* in view of *Vaglica*. Applicants respectfully traverse the rejection in light of the foregoing amendments and the following remarks.

Under 35 U.S.C §103(a), "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." According to MPEP §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." Finally, MPEP 2141.III notes that:

The key to supporting any rejection under 35 U.S.C. 103 is the *clear articulation of the reason(s) why the claimed invention would have been obvious*. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]jections on obviousness cannot be sustained by mere conclusory statements; instead, there

*must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” KSR, 550 U.S. at \_\_\_, 82 USPQ2d at 1396.*

(Emphases added.)

Claim 1, as amended, recites “generating a clock at [a] first link analyzer; timestamping...first data events with timestamps using the clock as a reference; propagating the clock from the first link analyzer to [a] second link analyzer; [and] timestamping...second data events with timestamps using the propagated clock as a reference.” Claims 9, 15, and 21, although of different scope, have each been amended to recite similar language. Support for the foregoing limitations may be found at least at paragraphs 46-51 and in Figure 4 of Applicants’ specification (copied below for the Examiner’s convenience). For example, as shown in Figure 4 below, an “Analyzer Clock” is generated at one of “Analyzer 1,” “Analyzer 2,” and “Analyzer 3” and propagated in series to the other analyzers (see arrows labeled 402B, 404B, and 406B). The “Analyzer Clock” is used “as a common base or reference for the timestamping of data events....” See *Specification* at ¶ 46.

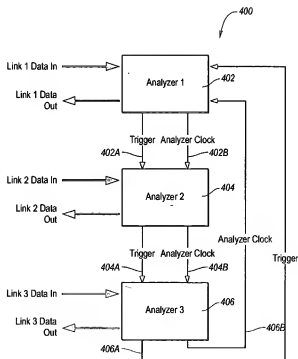


Fig. 4

In contrast, the cited art, whether considered individually or in combination, does not teach or suggest the foregoing limitations. Therefore, Applicants respectfully submit that claims 1, 9, 15, and 21 are allowable over the cited art. Accordingly, withdrawal of the rejection of claims 1, 9, 15, and 21, and their corresponding dependent claims is respectfully requested.

### **New Claims 27 and 28**

New claims 27 and 28 have been added by this amendment to further distinguish embodiments of Applicants' invention from the cited art. Support for new claims 27 and 28 may be found at least at paragraph 51 of Applicants' specification. Applicants respectfully submit that new claims 27 and 28 are allowable at least by virtue of their dependence from allowable claim 15.

### **Charge Authorization**

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 10<sup>th</sup> day of June 2010.

Respectfully submitted,

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